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PATENT APPLICATION  
Our Docket No. 960670.CNC

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re App : Donald L. N. Cardy et al : October 30, 2002  
S.N. : 08/737,457 : Art Unit 1644  
Filed : March 12, 1997 : Exam. G.R. Ewoldt  
For : IMPROVEMENTS IN OR RELATING TO Paper No. 36  
PEPTIDE DELIVERY

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LETTER

Honorable Commissioner of Patent and Trademarks  
Washington, D.C. 20231

Dear Sir:

This letter is submitted in response to the Official Action posted October 7, 2002, which carried a shortened, statutory period for response of one month so that a response was due by November 7, 2002.

That Action was in the form of a Restriction Requirement in which the claims under consideration were divided into Groups I-IV, each being deemed a separate and distinct invention by the Examiner. Thus, the applicants have been required to elect a single one of the groups for examination in this application.

In response to this requirement, applicants elect the claims of Group I which includes claims 1, 2, 5-7, 9, 11 and 16-19, drawn to polypeptide comprising a ScFv, a p53 fragment (KYICNSSCM

SEQ ID NO:7), and optionally, an HIV tat protein translocation domain.

The required election having been made, applicants also respectfully traverse the requirement for restriction, particularly with regard to the required separation of the claims of Group I and those of Group III, i.e., claims 21-23, drawn to a method of stimulating cell lysis with a polypeptide comprising a ScFv, a p53 fragment (KYICNSSCM SEQ ID NO:7), and optionally, an HIV tat protein translocation domain.

In this regard, applicants do not believe that the use of the molecule of the claims of Group I as claimed in Group III should, in fact, be a separate invention. With respect to the present invention, the products and claimed use are believed closely allied and should be rejoined and examined together. Note that the method of the claims of Group III specifically requires the molecule of the claims of Group I so that the process cannot be practiced with another, materially different product. Furthermore, no particular materially different process is described for the use of the product of the claims of Group I.

Although it is noted that the subject matter of the claims of Group I is separately classified from the subject matter of the claims of Group III, the classification in either case is believed sufficiently limited that searching both would not present an undue burden to the Examiner.

Accordingly, the Examiner is asked to reconsider his position with regard to the present restriction requirement and allow the examination of at least the claims of Group III, together with those of Group I, to proceed in this application.

Respectfully submitted,

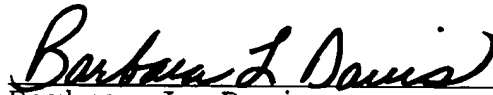
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**CERTIFICATE OF FACSIMILE TRANSMISSION**

I hereby certify that the foregoing Letter in response to the Official Action of October 7, 2002 in application Serial No. 08/737,457, filed on March 12, 1997 of Donald L.N. Cardy et al., entitled "IMPROVEMENTS IN OR RELATING TO PEPTIDE DELIVERY", and a transmittal letter are being sent by facsimile transmission to: The Commissioner of Patents and Trademarks, Washington, D.C. 20231, on October 30, 2002.



Barbara L. Davis  
Secretary to C. G. Mersereau

Date of Signature: October 30, 2002



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October 30, 2002

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BOX NON-FEE AMENDMENTS (PATS)  
Commissioner of Patents and Trademarks  
Washington, D.C. 20231

Sir:

Transmitted herewith is a Letter in the above-identified patent application.

The Commissioner is hereby authorized to charge any fees listed in 37 CFR 1.16 and 1.17 which may be required by this paper to Deposit Account No. 08-1265.

Yours very truly,

NIKOLAI & MERSEREAU, P.A.

C. G. Mersereau

CGM/bld  
Enclosures

**FAX RECEIVED**

OCT 31 2002

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**FACSIMILE TRANSMISSION**

**OFFICIAL**

**TO:**

**Name: Examiner G. R. Ewoldt, Ph.D.**

**Fax No.: 703-305-3014**

**Firm: USPTO**

**City:**

**State:**

**Country: USA**

**FROM:**

**Name: C. G. Mersereau**

**Fax No.: (612) 349-6556**

**NIKOLAI & MERSEREAU, P.A., 900 Second Ave. S., #820, Minneapolis, MN 55402, U.S.A.**

**DATE: October 30, 2002**

**Time: 3:00 p.m. TOTAL PAGES incl. cover sheet: 5**

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**MESSAGE:**